

REMARKS

The instant amendment is timely in view of the contemporaneously filed petition for a two (2)-month extension of time. Entry and reconsideration of the amendment is requested.

New claims 25-30 are presented in order to claim alternative embodiments of the invention directed to methods for making a natural clay substitute or natural terracotta substitute and vulcanized molded objects of these compositions, in each instance having the look and feel of the natural materials. No new matter is introduced; entry of the claims is respectfully requested.

To briefly review, the present invention is directed to a mixture of synthetic polymers, fillers and vulcanizing agents designed to achieve specific characteristics in molded objects prepared from the resulting composition. The invention distinguishes itself from the prior art in that the specific polymers, fillers and other components are selected from the myriad of such materials generally available in the art in order to achieve specific advantages and characteristics not previously described. In particular, the resulting molded objects not only have the look and feel of, e.g., natural terracotta, but also have enhanced fracture resistance, particularly at low temperatures. Consequently, a planting pot prepared from the composition is less likely to fracture during handling and use and less likely to fracture if left exposed to the elements during the winter months. Additionally, unlike plastic pots merely having clay-like coloration, pots made from the instantly claimed compositions have the "feel" as well as the "look" of natural products, but with advantages as described.

Turning now to the art rejections of record, claims 1-3, 5-8, 10-12, 14-17, 19, 20, and 22-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hori et al. (hereinafter Hori) or Van Der Groep. The Examiner states that each of these patents teaches vulcanizable rubber compositions which incorporate therein the instantly claimed thermoplastic polymers, rubbers, fillers and functional additives as instantly claimed. In particular, the Examiner identifies Hori at column 2, lines 45+ and further at columns 5 and 6, as well as Van Der Groep at columns 5 and 6. The Examiner concludes that the above-identified claims are rendered *prima facie* obvious. The Examiner further notes that obviousness does not require absolute predictability but rather a reasonable expectation of success. Additionally, the Examiner states that it is *prima facie* obvious to combine known ingredients, have them function in an expected manner, and to mix the ingredients and adjust the relative proportions so as to "optimize" the resultant blend and the resultant properties. This rejection is respectfully traversed.

Hori is directed to an invention in which a thermoplastic resin composite is prepared based on a chlorinated polyethylene elastomer composition in combination with a hard thermoplastic resin; the resulting blend having specific physical and performance properties. The enumerated sections of Hori relied on by the Examiner disclose no more than a list of various vinyl chloride resins, various chlorinated polyethylene elastomer compositions, various fillers, as well as other additives such as stabilizers, lubricants, antioxidants, etc. However, Hori is fatally defective in at least one aspect since the composition prepared by Hori was not intended to be vulcanized and, consequently, there is no reference at all to the use of vulcanizing agents. Furthermore, Hori is directed to

the preparation of sealing and gasketing materials and, therefore, the "look and feel" of the resulting composition is irrelevant. Consequently, Hori provides little more than a list of ingredients, none of which the present inventors claim to have invented. Contrary to the Examiner's argument, Hori fails to teach a vulcanizable rubber composition as clearly indicated by the absence of any vulcanizing agents in the reference.

Furthermore, since Hori is directed to achieving properties that are irrelevant to the present invention, it is respectfully suggested that the present invention cannot be *prima facie* obvious with regard to either the selection of particular ingredients or to the adjustment of their proportions so as to optimize the resultant blend and the resultant properties. In other words, since Hori is directed to sealing and gasketing materials typically requiring, e.g., advantageous compression set characteristics and utilized in applications hidden from view, it is difficult to understand how such a reference renders obvious an invention directed to the "look and feel" properties of a molded object for which compression set is irrelevant. On the contrary, one skilled in the art to which the present invention is directed would not be expected to consider Hori at all. Withdrawal of the rejection in view of Hori is respectfully requested.

Regarding Van Der Groep, the portions specifically identified by the Examiner merely list various polymers and polymer combinations. Additionally, Van Der Groep is directed to a polymer composition in which a chemical reaction occurs between the various polymeric components, and the polymer reaction product is then used as a blending material with still other polymers. Again, Van Der Groep discloses nothing about vulcanization, no details about fillers or particular mixtures of ingredients to obtain a specific result, and certainly

provides no direction with regard to the properties of such mixtures; in particular, their use as clay substitutes having specific "look and feel" characteristics. Furthermore, the complicated preliminary interaction between polymers required by Van Der Groep is similarly irrelevant to the present invention, and one skilled in the art would not look to this reference to learn anything about preparing molded objects having the look and feel of natural terracotta or natural clay substitutes. Withdrawal of this aspect of the rejection is respectfully requested.

In summary, the references relied on to reject the claims lack any teaching or suggestion regarding the use of specific polymer, elastomer and filler combinations in order to produce clay or terracotta substitutes. Furthermore, it is noted that the properties of the claimed compositions are improved, particularly with regard to the "look and feel" of the compositions as well as their low temperature fracture resistance. In this regard, since a composition is commensurate with its properties and the Examiner has not cited a reference that relates to these properties, the rejection is inappropriate. With all due respect, nothing in either of the references would suggest the claimed composition, the method of producing it or the molded objects produced using such compositions.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 09/732,820

Docket No.: LONGWO 3.0-043

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 24, 2003

Respectfully submitted,

By 

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